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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,597	02/04/2005	Yoshinori Kimata	101621-12	8520
27387	7590	08/11/2006	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS, P.A.			GAWORECKI, MARK R	
875 THIRD AVE			ART UNIT	
18TH FLOOR			PAPER NUMBER	
NEW YORK, NY 10022			2884	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,597

Applicant(s)

KIMATA, YOSHINORI

Examiner

Mark R. Gaworecki

Art Unit

2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4 February 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Fang *et al.* (Equipment for High-Pressure Infrared Measurements, enclosed).

With respect to claim 2, Fang *et al.* demonstrates the use of an infrared cell, which is able to withstand pressures of 0-1500 atm (page 24, section C).

Allowable Subject Matter

3. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 1 and 4 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:

With respect to claim 1, the infrared cell disclosed by Walker *et al.* (3,886,364) includes a steel cell (column 3, line 13) capable of withstanding high pressure (column 3, lines 1-6) and includes transmission windows for infrared analysis (column 3, lines 27-30). Walker *et al.* neither discloses a cell, which is capable of withstanding pressures in the range of 20 Pa or lower, nor a

measurement method which would require such a pressure, as indicated by applicant. Fang *et al.* demonstrates the use of an infrared cell, which is able to withstand pressures of 0-1500 atm (page 24, section C), but fails to disclose the measurement method as taught by applicant.

With respect to claim 3, Fang *et al.* shows an infrared cell as applied to claim 2 above, which is constructed of stainless steel, but shows neither an optical path length of 5 to 40 mm, nor window panels with thicknesses of 2 to 8 mm (page 24, section C).

With respect to claim 4, the infrared cell disclosed by Walker *et al.* (3,886,364) is made from stainless steel or Hastelloy (column 4, lines 37-39), but does not show window panels made of quartz or sapphire, having an optical path length as claimed or a thickness as claimed. Fang *et al.* shows an infrared cell as applied to claim 1 above, which is constructed of stainless steel, but shows neither an optical path length of 5 to 40 mm, nor window panels with thicknesses of 2 to 8 mm (page 24, section C).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Gaworecki whose telephone number is (571) 272-8540. The examiner can normally be reached on Monday through Thursday, 7:00-5:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MG

1 August 2006



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